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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,584

04/14/2004

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036167-0104

6211

22428 7590 09/18/2008
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EXAMINER

FLEISCHER, MARK A

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

09/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/823,584	Applicant(s) WEISS, LAWRENCE D.	
	Examiner MARK A. FLEISCHER	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5 June 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Status of Claims

1. This action is in reply to the Application filed on 14 April 2004.
2. Claims 1–36 are currently pending and have been examined.

Priority

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Information Disclosure Statement

4. The Information Disclosure Statement filed on 5 June 2006 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Objections

5. Claims 7 and 23 are objected to because of the following informalities: The phrase "performing a weighted average" in the limitation should probably read "calculating a weighted average". Appropriate correction is required.
6. Claim 14 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The claim limitation recites "[a] product assessment report generated by the method of claim 13". Claim 13 recites the limitation "...generating a product assessment report...", hence claim 14 does not modify or narrow the scope of claim 13. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form.

Claim Rejections - 35 USC §101

7. 35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 31–36 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a §101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876). An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a §101 statutory process, the claims should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus or system component that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Claim 31 recites purely mental steps. The remaining claims are all dependent on claim 31 and are therefore also rejected.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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10. Claims 31, 35 and 36 are rejected under 35 U.S.C. 102(a) as being anticipated by Stewart, *et al.* (US PgPub 20020152110 A1).

Claim 31:

Stewart teaches the following limitations as shown.

- *soliciting targeted respondents to assess a product* (Stewart [0043]: “One skilled in the market research art will recognize that the present invention can be tailored to assist in procuring a wide variety of information from consumers, professionals, or other target audiences and is not limited to use in connection with market research studies. For example, the system of the present invention could be used to collect and analyze employee satisfaction within a company, profiles of trade show attendess [sic], or reasons for funding among college alumni.” (emphasis added) where ‘procuring ... information from consumers’ and ‘target audiences’ corresponds to the limitation.);
- *eliciting data from the respondents, including data indicative of the respondents' preferences* (Stewart [0005] regarding “user preferences...using multi-media tools to collect participant data” (emphasis added));
- *eliciting ratings of product characteristics against a continuous metric scale using the data elicited from the respondents* (Stewart [0052]: “A wide variety of multi-media interactive components can be utilized to collect market research data. This variety of multi-media interactive components [...] can be categorized as follows: (i) Single Response--Real Time Feedback; (ii) Drop & Drag--Multiple Response; (iii) Slider Scale Response; (vi) Multiple Response--Interactive Checkbox; (v) Multiple Response--Custom Calculation Features; (vi) Timer Interaction; (vii) Drop & Drag--Variable Scale Response; (viii) Allocation; (ix) Drop & Drag--Sort; (x) Visual Purchase History; (xi) Ranking; (xii) Video Selection; and (xiii) Multi-Sensory.” (emphasis added) where the ‘Slider Scale Response’ corresponds to a *rating* and ‘ranking’ tools are used as in [0007] “These multi-media tools may actually engage most of the participant's senses and ask questions based on stimuli that more accurately reflect an

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- actual product through the use of virtual display, virtual tours or other similar depictions of actual objects and data.” (emphasis added), hence pertain to *product characteristics*.);
- *assigning values for the ratings elicited from the respondents* (Stewart [0067-8] regarding “Custom Calculation Features”);
 - *processing the values to score the product* (Stewart [0048]: “A score [...] is then generated [] from Participant's interaction with each module [].” (emphasis added)).

Claim 35:

Stewart teaches the following limitations as shown.

- *automatically generating a report of scores compiled from respondents* (Stewart [0091]: “Graphics subsystem [] receives textual and graphical information and processes the information for output to display []”. (emphasis added) where the emphasized text corresponds to the limitation, *i.e.*, ‘processed information’ that is ‘output’ is a *product assessment report*. See also [0009]: “The present invention further captures responses from the participants as the participant manipulates such stimuli, scores such responses and stores such responses in a hidden frame as HTML with hidden input tags. This allows the responses to be stored in a data frame on the participant's computer until all the responses are collected. At the conclusion of the survey the stored input is sent to the server, as text (preferably comma-delimited). The stored responses can then be written and used by any program that has the capability to manipulate the text data.” (emphasis added) where ‘can then be written and used...’ contemplates a *report of scores...*).

Claim 36:

Stewart teaches the following limitations as shown.

- *eliciting ratings of a set of characteristics in relation to a first product, the method further comprises describing a second product to the respondents and eliciting ratings from the respondents of the same set of characteristics in relation to a second product, and processing includes scoring the second product* (Stewart [0067-8] pertaining to “Custom Calculation Features” which “allows a Participant to select and deselect variables [] of the

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subject [] and upon deselection or selection of such variables [], the calculation of the dollar value [] associated with the subject [] is altered.” (emphasis added) where the aforementioned variables corresponds to a *set of characteristics*...Also in [0072] and the “Variable Scale Response” is used to relate “two subjects or stimuli”, *i.e., characteristics* and which corresponds to *eliciting ratings from the respondents*...Also, in [0057] “A Multiple Response, Real Time Feedback module would allow the Participant to vary at least two different features or objects of a subject [] using layers as set forth above. This would allow the Participant to vary the appearance of more than one object on a subject [].” (emphasis added) where ‘different features’ also corresponds to two sets of characteristics.).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1–5, 9, 11–21, 25, 27–30 and 32–34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Stewart, *et al.* (US PgPub 20020152110 A1) in view of Herz (US 6029195).

Claims 1, 16, 17 and 30:

Although claims 1, 16, 17 and 30 and their respective dependent claims are worded and/or structured slightly differently, they have the same scope and so are addressed together. Stewart describes and/or discloses a *method*, (Stewart [title]) *program product* (Stewart [0093]) and *system* (Stewart [title]) and the following limitations as shown.

- *displaying on a terminal* (Stewart [0042]) *a predetermined scale* (Stewart [0047]: “rating scales”) *against which a respondent can indicate a rating for a first existing product* (Stewart [0072-74]);

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- *receiving a first product rating indicated against said scale from the terminal of the respondent* (Stewart [0072-74]: “the rating for one subject [] increases” where ‘subject’ corresponds to *a first product*. See also [0091] regarding “Input device(s)” which “receives textual and graphical information...”);
- *displaying a visual indicator along said scale corresponding to said first product rating* (Stewart [0064]: “[...] the Participant then gauges his response by the utilization of a slider scale [...]. The bar [] on the scale [] is engaged by the Participant using his mouse and drug [sic] along the scale [] and dropped into the position which represents the Participant's reaction to the stimuli [].” (emphasis added));
- *receiving a first different product rating for a different product indicated against said scale from the terminal of the respondent* (Stewart [0072]: “... Slider Scale Response module [] that asks a Participant to use a sliding scale [] to compare at least two subjects or stimuli [].” (emphasis added) where ‘asks a...’ corresponds to *receiving* and ‘to compare...’ *ipso facto* indicates *a first different product*);
- *collecting ratings made by said respondent via said terminal* (Stewart in at least [0007] refers to “collected data” and in [0072] refers to “rating” using a “computer” connected to the internet as in [0040].).

Stewart does not specifically describe and/or disclose the following limitations, but Herz, in an analogous art, does as shown.

- *displaying a visual indicator along said scale corresponding to said first different product rating* (Herz [18,61]: “In the preferred embodiment of the invention, a visual indicator, such as a sliding bar or indicator needle on the user's screen, can be used to continuously display the passive feedback score estimated by the system for the target object being viewed, unless the user has manually adjusted the indicator by a mouse operation or other means in order to reflect a different score for this target object [...]” and in [18,22] Herz refers to “a scale”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the features and teaching of Stewart with those of Herz because both

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pertain to the use of the Internet to obtain market research data, both incorporate graphical displays of user input data and enable practical market data to be obtained. Moreover, the technical ability existed to combine the elements as claimed and the results of the combination were predictable.

Claims 2 and 18:

Stewart describes and/or discloses the following limitations.

- *receiving a second existing product rating indicated against said scale from the terminal of the respondent* (Stewart [0072]: "... asks a Participant to use a sliding scale [] to compare at least two subjects [...] as the button [] on the scale [] is moved in one direction the rating for one subject [] increases, while the rating for the other subject [] decreases." (emphasis added)); *and*
- *displaying a visual indicator along said scale corresponding to said second existing product rating* (see the aforementioned text at [0071] which describes a "Drop and Drag" method of display.).

Claims 3 and 19:

Stewart describes and/or discloses the following limitations.

- *receiving identifications by the respondent of the first and second existing products* (Stewart [0032]: "...allows a participant to visually identify products that the participant has purchase [sic] in the past." (emphasis added) where 'participant' and 'identify...' corresponds to *identifications by the respondent* and 'in the past' indicates *existing products*. In [0091] Stewart states "receives textual..." and in [0071] visual information pertaining to two "subject[s]" which corresponds to *the first and second existing products*).

Claims 4 and 20:

Stewart describes and/or discloses the following limitations.

- *providing said respondent with additional information of said different product via said terminal* (Stewart [0045]: "A Participant may be directed to the market research application through a link that is provided to the Participant via e-mail or other communication, or may be

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- directed to the market research application through a hyper-link from another Web site." (emphasis added) where 'provided to...' corresponds to *providing said respondent*, and 'the market research...' corresponds to *additional information...* and 'through a hyper-link...' corresponds to *via said terminal*. In [0071-6] relates to information regarding at least two 'subjects' which corresponds to *said different product.*);
- *receiving a second different product rating of said different product indicated against said scale from the terminal of the respondent* (Stewart [0072]); and
 - *displaying a visual indicator along said scale corresponding to said second different product rating, wherein said second different product rating represents a re-rating of said different product by the respondent* (Stewart [0057]: "Furthermore, the Single Response, Real Time Feedback module [] can easily be modified to be a Multiple Response, Real Time Feedback module (not shown). A Multiple Response, Real Time Feedback module would allow the Participant to vary at least two different features or objects of a subject [] using layers as set forth above. This would allow the Participant to vary the appearance of more than one object on a subject 48. The Administrator could then ascertain not only the Participant's preference with respect to one object, but also to ascertain the Participant's preference with respect to two objects used in conjunction with one another." (emphasis added) where the emphasized text corresponds to *said second different product rating represents a re-rating of said different product by the respondent*. Note again in [0072] the relative display *along said scale...*).

Claims 5 and 21:

Stewart describes and/or discloses the following limitations.

- *receiving a response from said terminal of the respondent to at least one of a plurality of questions regarding said different product indicated as a rating against a predetermined scale displayed on the terminal* (Stewart [0007]: "These multi-media tools may actually engage most of the participant's senses and ask questions based on stimuli that more accurately reflect an actual product through the use of virtual display, virtual tours or other similar depictions of actual objects and data." (emphasis added) where 'ask questions' corresponds

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to at least one of a plurality of questions regarding ... and 'actual objects' corresponds to said different product... See also [0063] for reference to "Slider Scale Response").

Claims 9 and 25:

Stewart teaches the following limitations as shown.

- *said visual indicators corresponding to said answers to said plurality of questions numerically illustrate the location in the scale indicated by the respondent* (Stewart [0052]: "A wide variety of multi-media interactive components can be utilized to collect market research data. This variety of multi-media interactive components shall be referred to herein as survey modules []. In one embodiment of the present invention, these survey modules [] can be categorized as follows: (i) Single Response--Real Time Feedback; (ii) Drop & Drag--Multiple Response; (iii) Slider Scale Response; (vi) Multiple Response--Interactive Checkbox; (v) Multiple Response--Custom Calculation Features; (vi) Timer Interaction; (vii) Drop & Drag--Variable Scale Response; (viii) Allocation; (ix) Drop & Drag--Sort; (x) Visual Purchase History; (xi) Ranking;" (emphasis added).)

Claims 11 and 27:

Stewart teaches the following limitations as shown.

- *said steps of indicating ratings along said scale comprise performing an action with a user input device electrically connected to said terminal* (Stewart [0047] and [0072]).

Claims 12 and 28:

Neither Stewart nor Herz specifically teach

- *the display of said scale includes demarcations along said scale defining a plurality of subjective ratings*

but Examiner takes **Official Notice** that it is old and well-known as well as common place in the graphical display arts to depict numeric scales with various hash marks or demarcations indicating the relative score values. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate these old and well-known as well as common place graphical techniques because they facilitate the user's experience in

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understanding the data and the technical ability existed at the time of the invention to incorporate such feature and the results of the inclusion of them were predictable.

Claim 13:

Stewart teaches the following limitations as shown.

- *collecting answers and ratings made by a plurality of respondents using the method of claim 1* (See Stewart in the rejection of claim 1 regarding *ratings*. See also Stewart [0047] regarding “question types, including yes or no questions...”);
- *generating a product assessment report for said product* (Stewart [0091]: “Graphics subsystem [] receives textual and graphical information and processes the information for output to display []”. (emphasis added) where the emphasized text corresponds to the limitation, *i.e.*, ‘processed information’ that is ‘output’ is a *product assessment report*. Note that neither Stewart nor Herz specifically refer to a *product assessment report, per se*, but Examiner takes **Official Notice** that it is old and well-known as well as common place in the data processing arts that processed information that is displayed is commonly considered as a ‘report’.).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the information processing, graphical display and output capabilities of Stewart to generate a ‘product assessment report’ because the fundamental purpose of collecting marketing research data is to utilize such data and such utilization is facilitated by the generation of a ‘report’ and the technical ability existed at the time of the invention to incorporate such report generation feature and the results of the inclusion was predictable.

Claim 14:

Stewart teaches the following limitations as shown.

- *A product assessment report generated by the method of claim 13* (See the rejection of claim 13).

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Claims 15 and 29:

Stewart teaches the following limitations as shown.

- *displaying an advertisement a predetermined number of times on said terminal* (Stewart [0010]: “In a preferred approach, the invention provides for multimedia stimuli to reach a breadth of senses. For instance, the invention may use audio so as to have the participant listen to interviewing instructions or introduction of a new product idea (may be combined with visual stimuli (i.e. pictures, video and music). In another option, the participant may watch and listen to a test advertisement. [...] These psychosocial testing patterns enable a much deeper and more accurate level of response than would have been possible using traditional and current techniques.” (emphasis added). In [0038] “For purposes of this discussion, a “Participant” will be known herein as the person who is engaged by the market research system for the purpose of recording the person's response to certain predetermined stimuli.” (emphasis added) where ‘predetermined stimuli’ corresponds to *predetermined number of times* and in conjunction with the above emphasized text corresponds to the limitation.);
- *receiving a second different product rating of said different product indicated against said scale from the terminal of the respondent* (Stewart [0072]); and
- *displaying a visual indicator along said scale corresponding to said second different product rating, wherein said second different product rating represents a re-rating of said different product by the respondent* (Stewart [0057]: “Furthermore, the Single Response, Real Time Feedback module [] can easily be modified to be a Multiple Response, Real Time Feedback module (not shown). A Multiple Response, Real Time Feedback module would allow the Participant to vary at least two different features or objects of a subject [] using layers as set forth above. This would allow the Participant to vary the appearance of more than one object on a subject 48. The Administrator could then ascertain not only the Participant's preference with respect to one object, but also to ascertain the Participant's preference with respect to two objects used in conjunction with one another.” (emphasis added) where the emphasized

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text corresponds to *said second different product rating represents a re-rating of said different product by the respondent*. Note again in [0072] the relative display *along said scale...*).

Claims 32 and 33:

Stewart teaches the following limitations as shown.

- *displaying to the respondents the ratings of the product characteristics [the score of the product]* (Stewart [0072] “[...] a modified Slider Scale Response [...] asks a Participant to use a sliding scale [] to compare at least two subjects or stimuli [...] as the button [] on the scale [] is moved in one direction the rating for one subject [] increases, while the rating for the other subject [] decreases. This type of module shall be known herein as a Drop & Drag--Variable Scale Response []” and corresponds to *displaying ... the ratings of the product...* Stewart, claim 8 states: “...to allow interaction with said participant and a hidden frame for storing each said score from each said electronic page until said participant completes said survey.” (emphasis added) where the score therefore becomes visible upon the completion, hence *displaying ... the score of the product*) and

Stewart does not specifically describe and/or disclose *requesting the respondents to validate the ratings [score]*, but Examiner takes **Official Notice** that it is old and well-known as well as common place in the Internet application arts that standard protocols and interaction modules provide opportunities for users to validate and/or authenticate data. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made incorporate the data display and validation methods in web-based market research methods and system as this can be used “to assure statistical confidence” (see Herz [30,27]) of the data. Moreover, the technical ability existed to combine the elements as claimed and the results of the combination were predictable.

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Claim 34:

Stewart teaches the following limitations as shown.

- *prompting the respondents to comment on the score or the ratings* (Stewart [0047] regarding "...(ii) rating scales, (iv) comment boxes..." Note that the "survey modules" therein are germane to *scores*, hence the quotation also pertains to 'commenting' on 'scores').

13. Claims 6–10 and 22–24 and 26 are rejected under 35 U.S.C. §103(a) as being unpatentable over Stewart, *et al.* (US PgPub 20020152110 A1) in view of Herz (US 6029195) and further in view of Lukomnik, *et al.* (US PgPub 20050010543 A1).

Claims 6 and 22:

Stewart describes and/or discloses the following limitations.

said step of collecting ratings further comprises

- *collecting both answers and ratings made by said respondent* (Stewart [0047]: "[...] such web pages generally consist of (i) a variety of different question types, including yes or no questions and multiple choice, (ii) rating scales [...]" (emphasis added) wherein web pages are "loaded", hence *collect[ed]*.),
- *displaying said rating to the respondent via the terminal* (Stewart [0072] describes the visual display of "the rating".)

Neither Stewart nor Herz specifically teach *calculating ...the overall rating* or, but Lukomnik, in an analogous art, does.

- *calculating an overall respondent rating for said different product* (Lukomnik [0048]: "The raw "headline", or overall entity rating, is the sum of all the category contributions to the "headline" or overall rating. The raw "headline" scores are then converted to a final overall entity score by ranking the universe of entities being scored [...]" (emphasis added) where the 'sum[mation]' corresponds to *calculating* and 'overall entity score' corresponds to *an overall respondent rating*....and where 'entity' corresponds to *said different product*.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the features of Stewart/Herz with the methods of Lukomnik because it

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provides a generalized approach related to computer-based surveys for scoring and rating techniques (see Lukomnik [0002]) and provides an efficient system and method for maintaining and using data from a database, and further assesses the survey results for inconsistencies ([0007]) and in this way improves upon the teachings of Stewart and Herz. Moreover, the technical ability existed at the time to improve upon the teaching of Stewart and Herz and the result of the improvement was predictable.

Claims 7 and 23:

Stewart does not specifically describe and/or disclose the following limitations, but Herz, in an analogous art does as shown.

said step of calculating includes

- *performing a weighted average of said answers and ratings in accordance with a predetermined formula* (Herz [19,58] and at [18,53] “weighted average of the two ratings.” (emphasis added) and at [23,52] in reference to “quality attributes” which corresponds to *answers* to survey questions. In [18,28] Herz refers to “A typical formula...” hence corresponds to *predetermined formula*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the features and teachings of Stewart with those of Herz because both pertain to the use of the Internet to obtain market research data, both incorporate user input data and enable practical market data and ratings to be obtained. Moreover, the technical ability existed to combine the elements as claimed and the results of the combination were predictable.

Claims 8 and 24:

Stewart teaches the following limitations as shown.

- *after said step of displaying said rating to the respondent, said method further comprising receiving an indication from said terminal whether the overall respondent rating should be revised* (Stewart [0053-5] refers to “Real Time Feedback [] module” wherein a “participant” can change the visual display. In [0072] such display is associated with a “rating” that a user modifies with a slider, hence corresponds to *receiving an indication from said terminal*).

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Claims 10 and 26:

Stewart teaches the following limitations as shown.

- *said overall respondent rating for said different product is displayed to the respondent in a format indicating a numeric score and a corresponding textual description* (Stewart [0080]: “A score (not shown) is then generated [] from Participant's interaction [...] This process is then repeated with the next survey module 50 until all the survey modules for a particular study have been displayed [...]” and in [0091] “Graphics subsystem [] receives textual and graphical information and processes the information for output to display [].” (emphasis added) and finally in [0047] reference is made to “yest or no questions and multiple choice, (ii) rating scales, (iv) comment boxes...” (emphasis added) where the emphasized text collectively corresponds to the limitation.).

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Conclusion

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Mark A. Fleischer** whose telephone number is **571.270.3925**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Beth Boswell** whose telephone number is **571.272.6737** may be contacted.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

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Alexandria, VA 22313-1450

or faxed to **571-273-8300**.

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3 September 2008

Application/Control Number: 10/823,584

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